



"Planning Forward"

*Doug Rhodes, Chairman
Cindi Michael, Vice-Chair
Jeff Powers, Fred Moore,
Adam Ambrecht, Helen Scholes,
Craig MacNaughton*

PLANNING COMMISSION Meeting Minutes

June 04, 2014

7:00PM

City Hall Council Chambers

Doug Rhodes called the meeting of the Kennesaw Planning Commission to order at 7:00p.m. in the Council Chambers, 2529 J.O. Stephenson Avenue. Roll call was taken with the following members present: Doug Rhodes, Adam Ambrecht, Fred Moore, Jeff Powers, Cindi Michael and Craig MacNaughton. Absent: Helen Scholes.

City staff Darryl Simmons, Zoning Administrator, was present. Councilperson Debra Williams and Councilman James Sebastian were also present in the audience. Robert Fox, Economic Development Director was also present.

The public was advised the Planning Commission serves as an Advisory Board making recommendations to Mayor and Council, who will hear the application scheduled for June 16, 2014, at 6:30p.m. unless otherwise noted. Chairman instructed anyone giving comments in the public session to please sign in and noted that limitation of 10 minutes per side would be allowed.

Action on Minutes – May 07, 2014

Motion was made by Cindi Michael, seconded by Fred Moore to approve the minutes of the May 07, 2014, meeting as submitted. Vote: 5-0 Yeas: Cindi Michael, Fred Moore, Jeff Powers, Adam Ambrecht and Craig MacNaughton. Nays: None.

Public Hearings: Properties were posted (May 19, 2014) as required along with the legal advertisement in the Marietta Daily Journal (May 16, 2014).

(1). ZV2014-03 Variance Request - Consideration to approve variance request submitted by American Disposal Services represented by William Duncan, Jr. for property located at 3245 Heritage Drive. Applicant is requesting variance reduction of the City regulated buffer zones totaling 50 feet; pursuant to Kennesaw Ordinance 46-65(c) (15). Property is identified as Land Lot 91, Tax Parcel 58 and is zoned Heavy Industrial (HI) (Mayor and Council 6-16-14).

Zoning Administrator, Darryl Simmons came forward to present the variance request to reduce the City of Kennesaw's buffer zones to allow for storage and vehicle activity within said area. The applicant is seeking to clean, store and have vehicle access in the buffer area. The storage of the

dumpsters take place in the rear yard as well as next door, created the violation and issuance of a citation from the Public Works staff to City code 46-65 to encroach into the City's 50' buffer zoned.

Public Works staff recommends denial of the requested variance as this activity for storage represents a strong potential for environmental damage to the stream that runs along the southern property line. Staff does not see any overriding mitigation circumstances to exempt the use of the buffer area for storage and the operation of the solid waste business and the potential contamination by the dumpsters requesting to be stored within the buffer area. No hardships have been shown. Zoning Administrator, Darryl Simmons recommends **denial** of encroachment into required buffer areas for the additional storage of units and vehicle traffic. His recommendation is based on the memo from Public Works staff, which shows the impact presents a potential for environmental damage and in addition no hardships have been shown.

Memo

Subject: 3245 Heritage Drive Stream Buffer Variance

Date: May 30, 2014

*We recommend that the stream buffer variance be **denied** because allowing storage on the stream buffer represents a strong potential for environmental damage to the stream that runs generally along the south property line. We see no overriding mitigation circumstances to exempt the use of the buffer for storage and operation of a solid waste operation adds to the concerns from potential contamination by the dumpsters.*

It should be noted that it appears the owner has been using a portion of the State 25 foot stream buffer as well as the City's additional 50 feet.

*Jon C. Whitmer, P.E.
Stormwater Manager*

Mr. Simmons, noted that Jon Whitmer, Storm water Manager, from Public Works Department was present to answer any technical questions on the subject matter.

Mr. William Duncan, representing the applicant, American Disposal Services came forward explaining the request for reduction of the buffer zone. An inspection having been made in March 2013 by City staff, Steve Turner the area was identified as a drainage ditch not a stream. This year he came out and alleged area/drainage ditch running along the southerly boundary of the property being identified as a stream. This prohibits vehicle ingress and egress and storage of dumpster and related equipment to be in violation and a citation was issued. Letter from the company indicated the prompt action to remedy the concerns of the City's Public Works Department, thus leading up to American Disposal Services request to utilize the buffer area, in order to continue operating from this location.

Brief discussion about the property and referenced to the site being used as shown on the screen. Ms. Lorna Campbell's letter of May 05, 2014 who was hired by the company to review the drainage feature that was determined by the City of Kennesaw as "State Waters" was referenced. Review and

comments about the drainage ditch and culverts on adjoining properties and the determination of the impact to water quality were discussed. Ms. Campbell (not present) indicated in her letter that any improvements to water quality on site may be negligible considering the existing conditions downstream that include piped stream and stormwater detention ponds in the buffer and on the stream, so indicated by Mr. Duncan.

Mr. Duncan indicated that Ms. Campbell noted that the force and volume of water coming from under the railroad tracks is minor and yet Mr. Turner from the City deemed it a stream. Mr. Duncan continued to explain the detention ponds shown which are piped underground and paved. The dumpster come in and are cleaned without soap and stored in this area due to the lack of indoor space. This is the reason that the requested variance is being asked. If the variance is not granted the company may have to consider moving due to the lack of space.

Chairman Rhodes asked about the water quality and how it is discharged on the property. Other members asked about the construction of the original building and survey indicating the buffer areas as it was designed.

John Elliott, General Manager and property owner Jack Brown showed how the flow and discharge into the catch basin takes place and commented that all storage containers are cleaned prior to placement within the buffer area/drainage ditch. General history about the previous business owner, Port a Potty who also used the area to store their inventory with no problem.

Mr. Brown owner of property explained the process for drainage on the property. It runs down stream to a detention pond from there to a culvert under the building into a second detention pond. All water leaving the property from pipe to pipe to the detention ponds.

Jon Whitmer came forward as staff from the Public Works Department. Mr. Whitmer is the Stormwater Manager for the City. He indicated he was not aware of the original construction of this building as he was not here, however the buffer areas were identified in 2006 as a major work of city environmental codes. As long as one does not do anything to the property it is fine. However, once any activity takes place such as storage within the buffer it can become un-stabilized. If any adverse activity happens we will step in. The storage area was un-stabilized they have grassed and stabilize the area and we are comfortable with that. The basis of denial is there is a 25' state buffer and 50' city buffer, which is what they are asking the variance from. The rules are clear in what you can do in this area and that is the reason for denial. Mr. Whitmer noted that all discharge goes into Proctor Creek from this area.

Floor open to public comment; no one was present to give testimony in favor of or in opposition to this application.

Floor closed to public comment.

Motion made by Fred Moore and seconded by Adam Ambrecht to table the application for further review. Vote: 2-3 Yeas: Fred Moore, Adam Ambrecht. Nay: Cindi Michael, Craig MacNaughton and Jeff Powers. Motion Failed.

After a brief discussion regarding assisting the applicant based on given history and feedback from staff the following motion was considered.

Second Motion made by Jeff Powers, seconded by Fred Moore to approve the variance to encroach into the first 25' of City buffer for storage and surface parking subject to storm water management requirements. Vote: 5-0. Yeas: Jeff Powers, Fred Moore, Cindi Michael, Craig MacNaughton, Adam Ambrecht.

(2). X2014-02 Annexation Request - Consideration to approve an annexation request submitted by Amak Partners, L.P. and Masal Partners Ltd., L.P., represented by Garvis Sams for property located at 1650 Cobb Parkway. Said request is to annex the 31.86+/-acre property from County MHP to City PVC (Planned Village Community). Property is identified as Land Lot 207/212, Tax Parcel 6. (Mayor and Council 6-16-14)

- **RZ2014-03 Rezoning Request** - Consideration to approve rezoning request submitted by Amak Partners, L.P. and Masal Partners Ltd., L.P., represented by Garvis Sams for property located at 1650 Cobb Parkway. Said request is to rezone the 31.86+/-acre property from **County MHP to City PVC (Planned Village Community)**. Property is identified as Land Lot 207/212, Tax Parcel 6. (Mayor and Council 6-16-14)
- **RZ2014-04 Rezoning Request** - Consideration to approve rezoning request submitted by Amak Partners, L.P. and Masal Partners Ltd., L.P., represented by Garvis Sams for property located at 1810 Old 41 Highway. Said request is to rezone the 1.29+/-acre property from **City General Commercial (GC) to City PVC (Planned Village Community)**. Property is identified as Land Lot 207, Tax Parcel 5. (Mayor and Council 6-16-14)

Staff came forward and presented both the request for annexation and rezoning of property located along Barrett Parkway @ Cobb Parkway and 1810 Old 41 Highway. Mr. Simmons introduce the translator for this evening, Silvia Cruz, who will assist during these agenda matters.

Said request being made to annex and rezone property from **Cobb County MHP to City PVC (Planned Village Community)** purpose for development of new commercial/retail center with a residential component. Subject property consists of approximately 30.7+/- acres, in addition as part of the project is a 1.29+/- acre tract within the City that will be rezoned to PVC. The city promotes the request for retail-residential component as the property is surrounded by other mixed-use properties such as Ridenour, which is zoned Planned Village Community.

As noted on the site plan the project is to include 16,000 square feet of retail (2.90+/- acres) 328 multi-family units (11.38+/- acres) with 49 townhome units (3.50+/- acres) with approximately 11+/- acres for future development.

City is in receipt from the applicant's attorney a letter of stipulations (dated May 30, 2014), which will be made part of these minutes. Stipulations included matters of transportation, environmental and design for the project, all to be addressed and reviewed during the plan review process of the development. The letter of non-objection from Cobb County was received with their concerns being addressed within the letter of stipulations received from the applicant's attorney.

Staff recommends approval of the annexation and rezoning of the properties to **Planned Village Community (PVC)** with the stipulations included in the letter of May 30, 2014 from applicant's attorney. The basis for this recommendation is the mixed-use concept is in compliance with the City of Kennesaw's growth strategy, future land use area and annexation strategy for the City in this area.

Mr. Garvis Sam, Esq. came forward representing Amak and Masal Partners concerning this application for annexation and rezoning of property 1650 Cobb and the rezoning of 1810 Old 41 Highway.

This application is the culmination of over 5 years of work and evaluation by city staff that recognized an 80 acre tract that was uniquely positioned to be annexed into the City of Kennesaw as a strategic expansion of the City's boundaries. Mr. Sams noted the previous annexation by Fuqua acquisitions of the 52+/- acres approved for annexation in February of this year. The Fuqua annexation included approximately 450,000 sq. ft. of retail space, which will follow a timeline of: closing end of this summer (2014) with land disturbance in the fall (2014) and vertical construction to commence in summer of (2015) a \$150 million dollar project.

Mr. Sams mentioned that what is before the commission tonight is the balance of the total 80+/- acre project consisting of 30+/- acre to be annexed and rezoned to PVC (Planned Village Community) with an additional 1.29+/- acre within the City to be rezoned to PVC to be included in the overall project. There is an Intergovernmental Agreement between the City of Kennesaw and Cobb County which governs applications of this kind. Under this agreement the City had received a letter which stated the County has no objections the County departmental made some recommendations (transportation) which have become part of the stipulations and conditions being considered with this application.

The annexation and rezoning of the property shall be from MHP (Cobb County) to PVC –Planned Village Community (City of Kennesaw) stated Mr. Sams. The total site area of the subject property consists of 30.7 +/- acres, which shall be developed as a Mixed-Use Development including 16,000 sq. ft. of retail space and residential components to include 49 townhomes and 328 class A amenitized apartments, which will be built by one of several builders. This plan is conceptual at this time and will return in a few months with more comprehensive plans, designs including elevations and renderings to give both the Planning Commission and Mayor and Council to review.

The applicant has established dialogue with all agencies affected by this request. Cobb County based on the intergovernmental agreement between cities in Cobb County (letter of non-objection having been received), Atlanta Regional Commission, Cobb County and Georgia Department of Transportation, McCollum Airport and the Georgia Regional Transportation Authority, and will comply with all agencies and address their concerns through the letter of stipulations as part of the annexation/rezoning request.

Mr. Sams indicated that the applicant agrees to formulate and submitting a timetable for the Castle Lake community to ensure relocation prior the construction, meetings would be held during this process with schools, churches and other agencies to ensure a smooth transition. The applicant will provide bilingual representatives to assist and facilitate the process along with negotiating a \$2,500

move in assistance program to the head of household. There will be other assistance in the form of food and lodging, help with sale of mobile homes that qualify for relocation under Georgia laws.

Mr. Sams discussed the allowed uses under PVC and those that have been excluded; all excluded uses are noted in the letter of stipulations and conditions. Brief review and design of the proposed monument based signage and location on Old 41 Highway, lighting designs to be environmentally sensitive, parking matters and compliance with all agencies regulations during the construction phase.

The residential component (Class A Amenitized Apartments), Mr. Sams stated neither the multi-family nor the townhome component will participate in any manner of subsidized housing programs. The apartments units to be constructed so that the units can be modified to individually owner-occupied status. The residential community will consists of clubhouse, resort-style swimming pool, grilling areas, meeting rooms and postal area. The mixture of units Mr. Sams will include 50% one-bedroom; 45% two-bedroom and 5% three bedroom. A third-party management company shall manage the day-to-day operations of the property owners association. There should be little impact on the school system whatsoever.

Non-residential component was discussed briefly with the parking area lighting being considered a maximum of 35 feet and low-level, shoe-box luminaries. The site lighting/photometric plan shall be submitted to staff for review and approval. Exterior design brick, stone and stucco.

Mr. Sams in closing stated that this plan is to move forward to expand City boundaries with Cobb County non-objection along with the increase to the City tax base and to improve the Town Center Regional Activity Center. This is a \$40million dollar project and along with the Fuqua project at \$150million dollars this will generate approximately \$1million dollar a year in taxes to the City. The applicant requests that you seize this opportunity and you as the Planning Commission recommend the annexation and rezoning of this property to the Mayor and Council and follow City staff's recommendation to approve. In conclusion the City's growth initiatives and strategies, has recommended this request be approved subject to numerous stipulations and conditions, which the applicant has agreed to those conditions.

Commission members had some general questions about the project. Parking was a concern – will there be sufficient “shared” parking for residents as well as their guests. What about on-street parking will the streets be wide enough to accommodate? The item of relocating residents was also brought forth for brief discussion.

Attorney Garvis Sams commented that the parking for the apartments and townhomes will be provided by means of surface parking as shown on the site plan which will employ “shared” parking among the respective residential components and which will provide sufficient parking for the total development. Mr. Sams responded that the fire marshal will not sign off in there is any concern about parking and streets, in addition garages have been supplied with the townhome component

and will be used for parking. This matter can be made part of the stipulations, which the applicant would agree to.

Matter of relocation was briefly discussed as referred to before in that a monetary value and assistance will be given to the head of household and is also part of the stipulations.

Floor opened to public comment.

Many members of the public were present after seeing the sign thinking this matter was about the Fuqua development, which was already heard and approved in February.

Jacqueline Lopez came forward to represent the community of Castle Lake. She said that there is no communication from management of the park, which confuses the residents in understanding what is happening. New residents are moving continually moving in. Since she has been in constant contact with City staff in an effort to stay informed that is why the residents trust her and she is here tonight.

Attorney Garvis Sams told the Commission that one of the most important impacts of approving the annexation are the people seated behind him. He explained that Fuqua Development is unable at this time to contact residents until they close on the property. He explained to the families that this latest annexation case being heard is in the western half of the mobile home park and that they will be compensated.

There were several questions being directed to staff and the applicant's attorney through Ms. Lopez and the interpreter, Silva Cruz about the project. Some of those questions that could not be answered were ones the residents commented on stating they were having trouble with Castle Lake management and their lack of communicating with the residents within Castle Lake.

MEETING PROCESS

The residents were confused as to the process for this meeting many of them misunderstanding this annexation application and the Fuqua annexation of February.

Staff explained the current property owners of Castle Lake are the applicant and is here to be considered for annexation and development. They are not the developer, however is requesting this annexation and rezoning. It is their intent to sell the property to one of three multi-family builders vying to purchase the property for development of the 30+/- acre tract.

Fuqua is the developer for the property facing Cobb Parkway and Barrett Parkway consisting of 54+/- acre tract already having been approved in February. This parcel is not being considered this evening.

RELOCATION CONCERNS/ RELOCATION ASSISTANCE: Many residents wondered about the relocation and compensation plan for the 30+/- tract.

The owner or developer of the 30+/- acres will implement the relocation and compensation plan as part of the condition/stipulations of approval in the proposed annexation/rezoning request. A

\$2,500.00 “move-in” assistance program to the “head of household” of each group of residents which participate in the relocation of their homes.

With respect to the 54+/- acre annexation/rezoning granted approval in February, Fuqua will be responsible for implementing their relocation plan and compensation. They currently do not own the property but when they do there will be some kind of commitment/plan put in place. Time line for Fuqua plans are as follows Mr. Garvis Sams stated: Relocation plan and closing on the Fuqua property sometime at the end of August or September, Land Disturbance on the tract should be anticipated in the fall of 2014 with vertical construction sometime in summer of 2015.

Bob Fox, Economic Development Department Director also responded that Fuqua based on contractual contact will be contacting residents later this month upon closing of the property to discuss and assist in the relocating of residents from the north west part of the mobile home park.

Ms. Lopez asked if the families would be notified of any sale of the property. Mr. Sams responded that reference is a statement of Georgia law which pertains to the tenants of Castle Lake which are tenants at will a minimum amount of notice of sixty days.

COMPENSATION AGREEMENT

Ms. Lopez reviewed the compensation agreement, which is to include a minimum \$2,500 per head of household, which may be subject to negotiation depending on the circumstances. Mr. Sams concurred.

Ms. Lopez also asked whether or not the city can approve without any development plans.

Mr. Simmons, City Zoning Administrator, indicated that there is a reversionary clause that if for any reason no development takes place within two (2) years the property will revert back to the original zoning designation. The City also must approve a developer and subsequently the site plans.

Ms. Lopez wanted to ensure that the care and respect of the residents of Castle Lake is being considered.

There were a few general questions addressed with regard to who are the players in this proposal; school seeking information about returning students and again the timeline for all the activity was questioned through the interpreter, Silva Cruz for the attending families. Mr. Sams responded that Castle Lake is not to be the developer and is selling the property. Family members will be notified for relocation and given the timeframe for the project once the property is under contract.

ADDITIONAL PUBLIC COMMENTS

Dan Day of Gaines Park Senior Living came forward. He indicated that he was not objecting to the proposed annexation and rezoning, however, had concern about traffic flow and his lack of what he said was not being part of the process.

Dave Ross/Jimmy Ross of Ross Memorial & Shady Grove Manor came forward. He spoke about the traffic concern and being proactive and wanting to also be part of the process.

Attorney Garvis Sams the applicant's attorney Gravis Sams replied that there would be a traffic study completed for the project and that the level of service will be generated from the intersections, which will have signalization.

Mr. Bob Fox of the Economic Development noted that City staff and the developer will facilitate with owners of the Ross Campus and Croy Engineering Firm the traffic management plan for the area. A traffic impact study is being compiled and City staff will communicate with property owners being affected by the project and its changes to traffic flow within the area of the development.

Floor closed to public comment.

There being no further comments or discussion members of the Commission made motions.

Motion made by Adam Ambrecht, seconded by Jeff Powers to approve the annexation of the 30.7+/- acres into the City of Kennesaw with stipulations in attached May 30, 2014 letter from Sams, Larkin and Huff law firm. In addition two friendly amendments to the list of stipulations to include the following: 1). Garages to be used for vehicle storage and 2). Driveways to be 18' in length. Vote: 5-0. Yeas: Adam Ambrecht, Jeff

Motion made by Cindi Michael, seconded by Adam Ambrecht to approve the rezoning of the 30.7+/- acres from **County MHP to City PVC (Planned Village Community) with stipulations** in attached May 30, 2014 letter from Sams, Larkin and Huff law firm. In addition two friendly amendments to the list of stipulations to include the following: 1). Garages to be used for vehicle storage and 2). Driveways to be 18' in length. Vote: 5-0. Yeas: Cindi Michael, Adam Ambrecht, Jeff Powers, Fred Moore, Craig MacNaughton. Nays: None.

Motion made by Adam Ambrecht, seconded by Jeff Powers to approve the rezoning of the 1.29+/- acres of 1810 Old 41 Highway from **City GC (General Commercial) to City PVC (Planned Village Community) with stipulations** in attached May 30, 2014 letter from Sams, Larkin and Huff law firm. In addition two friendly amendments to the list of stipulations to include the following: 1). Garages to be used for vehicle storage and 2). Driveways to be 18' in length. Vote: 5-0. Yeas: Adam Ambrecht, Jeff Powers, Cindi Michael, Fred Moore, Craig MacNaughton. Nays: None.

Adjournment

There being no further business, motion was made by Jeff Powers and seconded by Cindi Michael to adjourn this meeting at 10:00 p.m. Motion carried. Vote: 5-0. The next meeting is scheduled for July 09, 2014.

Respectfully submitted

DRAFT